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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,558	06/25/2003	George Calcev	CML01204M	5465
22917	7590	06/16/2008	EXAMINER	
MOTOROLA, INC. 1303 EAST ALGONQUIN ROAD IL01/3RD SCHAUMBURG, IL 60196			SOL, ANTHONY M	
			ART UNIT	PAPER NUMBER
			2619	
			NOTIFICATION DATE	DELIVERY MODE
			06/16/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docketing.Schaumburg@motorola.com  
APT099@motorola.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/603,558	<b>Applicant(s)</b> CALCEV ET AL.	
	<b>Examiner</b> ANTHONY SOL	<b>Art Unit</b> 2619	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6,9,10 and 13-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3,6,9,15 and 17 is/are allowed.
- 6) ☒ Claim(s) 4,5,10,13,14,16 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

- Applicant's Amendment filed 3/6/2008 is acknowledged.
- Claims 1, 6, 15, and 17 have been amended.
- Claims 1-6, 9, 10, and 13-18 remain pending.
- It is regrettable that previously indicated allowability of claims 10, 13, 14, and 18 is withdrawn.

### ***Claim Objections***

1. Claim 18 is objected to because of the following informalities:

For claim 18, line 10, the s of "nodes" should be deleted.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 4, 5, 10, 13, 14, 16, and 18 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling.

The following features are critical or essential to the practice of the invention, but not included in the claims is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

Regarding claims 4 and 16,

Applicant argues on pg. 6 of Remarks of the Amendment filed 3/6/2008 that claims 4 and 16 are directed towards operation of transceiver 700 when functioning as a node, a route to which is trying to be discovered, and that this situation is described with respect to the description of FIG. 10. Therefore, the Applicant argues that the features considered critical or essential to the practice of the invention are not performed by transceiver 700 when functioning as a node, a route to which is trying to be discovered.

The Examiner points out that there is nothing in the claim language to distinguish that the "first node" is a node to which a route is trying to be discovered. In fact, the two limitations of claim 4, and similarly claim 16, are essentially identical to a subset of limitations of claim 1, which corresponds to the node needing to communicate with another node as depicted in fig. 8. In other words, claims 4 and 16 can be considered a broader version of claim 1. Thus, it is appropriate for the Examiner to require claims 4 and 16 to include features listed above that are deemed critical or essential to the practice of the invention. If the Applicant wants to distinguish claims 4 and 16 from claim 1, **claims 4 and 16 should be amended to clearly recite that the "first node" is a node to which a route is trying to be discovered**. In addition, the following features are critical or essential to the practice of the invention, but not included in the claims is not enabled by the disclosure.

- receive a RT\_Aware message (see fig. 10 and spec, pg. 11, lines 26-32)
- determine if its identification was contained within the RT\_D Aware message (see fig. 10 and spec, pg. 11, lines 26-32)
- receive a flood stop message

Regarding claims 10 and 18,

- broadcasts a flood stop message

The description in the specification at various locations including at pg. 7, lines 21-24 and in the Supplemental Appeal Brief at pg. 3, lines 13-16 (*"In particular, when a first node wishes to discover a route to a second node, the first node notifies an overlay communication system, which notifies all nodes in the underlay communication system of the desire. Both the first and the second nodes begin flooding the underlay system simultaneously. When a node in the underlay system hears both the flood messages from the first and the second node, the overlay communication system is notified and **stops all flooding**. The route information is then provided to the first and the second nodes via the overlay communication system"*) demonstrate that the above feature which is bolded is considered essential by the Applicant. (Emphasis added)

#### ***Allowable Subject Matter***

4. Claims 1-3, 6, 9, 15, and 17 are allowed.

***Response to Arguments***

5. Applicant's arguments filed 3/6/2008 have been fully considered for claims 4 and 16 but they are not persuasive.

- For a response to argument regarding claims 4 and 16, see the rejection above for claims 4 and 16.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTHONY SOL whose telephone number is (571)272-5949. The examiner can normally be reached on M-F 7:30am - 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on (571) 272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Wing F. Chan/  
Supervisory Patent Examiner, Art Unit 2619  
6/6/08

/A. S./  
Examiner, Art Unit 2619  
6/12/2008